

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:

No. 19-43712

TIMOTHY and KAREN SEVERSON,

Debtors.

KATHRYN A. ELLIS, as Trustee for the
estate of Timothy and Karen Severson,

Adv. No.

Plaintiff,

COMPLAINT TO RECOVER POST-
PETITION AVOIDABLE TRANSFER

vs.

CARVANA LLC, an Arizona limited liability
company doing business in the State of
Washington,

Defendant.

COMES NOW the Plaintiff, Kathryn A. Ellis, duly appointed and acting Trustee in the
above referenced matter, by and through the undersigned attorney, and states and alleges as
follows:

I. PARTIES AND JURISDICTION

1. Plaintiff. Timothy and Karen Severson filed a Chapter 7 Bankruptcy Petition on
or about November 20, 2019. Kathryn A. Ellis is the duly appointed and acting Chapter 7
Trustee of such estate.

2. Defendant. The Defendant, Carvana LLC, is an Arizona limited liability
company doing business in the State of Washington.

**COMPLAINT TO RECOVER
POST-PETITION AVOIDABLE TRANSFER - 1**

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5506 6th Ave S
Suite 207
Seattle, WA 98108
(206) 682-5002

3. This adversary proceeding is one arising in the Chapter 7 case of the above named debtors now pending in this Court. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157, 1334 and 11 U.S.C. §§ 549 and 550. This is a core proceeding under 28 U.S.C. § 157 (b)(2)(A), (E), (H) and (O).

II. FACTS

4. On or about November 12, 2019, Timothy and Karen Severson, debtors herein, purchased a 2018 Ford Fiesta, VIN No. 3FADP4BJ9JM112407. The debtors' purchase was financed by Carvana LLC, Defendant herein. The debtors were given possession of the vehicle on or about November 12, 2019 and the lien was not perfected until December 27, 2019, more than thirty days after the debtors' purchase and possession and thirty seven (37) days post-petition.

5. The vehicle is property of the debtors' estate pursuant to 11 U.S.C. § 541 and has not been abandoned by Plaintiff.

6. The recording of a lien against the vehicle on December 27, 2019 transferred a security interest in the property to secure repayment of the sum of \$14,097.85 (hereinafter referred to as “Transfer”).

7. The Transfer of a security interest in the vehicle above referenced was not authorized under this title or by this Court.

8. On January 2, 2020, Plaintiff made written demand upon Defendant to return the Transfer above referenced but Defendant has failed to provide any response and has otherwise refused.

9. Defendant was the initial transferee of the Transfer or the entity for whose benefit

**COMPLAINT TO RECOVER
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1 the Transfer was made, or is the immediate or mediate transferee of the initial transferee
2 receiving such or any Transfer.

3 10. Pursuant to 11 U.S.C. § 550 (a), Plaintiff is entitled to avoid the transfer of the
4 security interest in the property above referenced from the debtor to Defendant.
5

6 11. Pursuant to 11 U.S.C. § 551, the Transfer avoided pursuant to 11 U.S.C. § 549 is
7 preserved to the benefit of the estate.

8 WHEREFORE, the Plaintiff prays for judgment as follows:

9 a) For an order avoiding the unauthorized post-petition lien pursuant to 11 U.S.C. §
10 549 in the 2018 Ford Fiesta;

11 b) For judgment against Defendant in the amount of \$14,097.85;

12 c) For interest from the date of transfer, plus costs and reasonable attorney's fees;
13
14 and

15 d) For such further relief as the Court deems just in the premises.

16 DATED this 13th day of March, 2020.

17
18 /s/ Kathryn A. Ellis
19 Kathryn A. Ellis, WSBA #14333
20 Attorney for Plaintiff

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